



ARIZONA SUPREME COURT ORAL ARGUMENT CASE SUMMARY



CASE SUMMARY

Case: IN RE ANDRE M., CV-03-0228-PR

Parties and Counsel:

Petitioner: Andre M. is represented by Lee Tucker.

Respondent: The State of Arizona is represented by Michael A. Colmenero, Deputy Pima County Attorney.

Facts:

Around 11:00 a.m. on February 2, 2002, Andre M., age 16½, was taken to the assistant principal's office at his high school because he and another boy had been fighting. Officer Holewell testified that he advised Andre of his rights, pursuant to *Miranda*, and Andre agreed to answer questions. The assistant principal was present while the officer and Andre talked for about 10-15 minutes about the fight. The officer said Andre had not asked to have his mother present during questioning.

Andre's mother was called and arrived by 11:30 a.m. She sat with her son and the assistant principal until 2:10 p.m., at which time she had to leave to pick up a younger child from school. She testified that, at her request, the assistant principal assured her that if the police began questioning Andre again before she returned, either the assistant principal or another administrator would sit in on the interview. The assistant principal did not convey this information to the police, however.

Andre's mother returned 20 minutes later to find Andre in a closed room with three police officers. No administrator was present because the assistant principal had been called away to deal with another student. Andre's mother sought to enter the room but was prevented from doing so by an officer seated outside the room. Even when she told the officer that she was Andre's mother, she was not allowed in. The interrogation continued for another 5-10 minutes.

Sergeant Nisbet testified that, after a sawed-off shotgun was found in the trunk of another student's car and was connected to Andre, he questioned Andre about both the fight and the gun, obtaining several admissions from him. Nisbet then asked Detective Carroll to take a tape-recorded statement from Andre. Carroll again advised Andre of his rights, pursuant to *Miranda*, before questioning him about the gun. Andre admitted that he had found the shotgun the day before, that he and another student had put it in the trunk of her car, and that Andre had accompanied the student as she drove to softball practice at the school.

All three officers involved in questioning Andre testified that he never asked for his mother or a school administrator to be present, had not been coerced or threatened into

talking, and had agreed that he understood his rights and would answer questions. Andre did not testify.

Andre was charged with (1) possession of a defaced deadly weapon, a class six felony; (2) possession of a deadly weapon on school grounds, a class one misdemeanor; (3) carrying or possessing a firearm or an air gun, a class two misdemeanor; and (4) disorderly conduct, a class one misdemeanor. He filed a motion to suppress his statements to police on the ground that they were obtained in violation of *Miranda*, that he had not knowingly, intelligently, and voluntarily waived his rights, and that he had been questioned in the absence of his mother or an administrator. The motion was denied, and Andre was adjudicated delinquent of possession of a deadly weapon on school grounds and carrying or possessing a firearm. The other two counts had been disposed of by directed verdicts. Andre was placed on 12 months standard probation. He appealed, and the court of appeals affirmed. This court granted his petition for review.

Issue:

Whether denying a parent access to their child's interrogation, deliberately and without cause, violates the child's right against self-incrimination.

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